

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL SOLER	:	CIVIL ACTION
	:	
v.	:	No. 20-3321
	:	
SUPERINTENDENT JAMIE SORBER,	:	
et al.	:	

ORDER

AND NOW, this 24th day of April, 2023, upon consideration of Petitioner Daniel Soler’s pro se Petition for Writ of Habeas Corpus and Memorandum in Support, and the Government’s Response in Opposition, and after careful review of the Report and Recommendation of United States Magistrate Judge Scott W. Reid and Soler’s Objections thereto, it is hereby ORDERED:

1. Soler’s Objections (Document 16) are OVERRULED;¹

¹ Soler seeks relief pursuant to 28 U.S.C. § 2254 from his state sentence for third-degree murder, arson, conspiracy to commit arson, carrying a firearm without a license, and possession of a firearm by a prohibited person. Soler asserts two ineffective assistance of trial counsel claims based on (1) counsel’s decision to withdraw a motion to suppress and (2) counsel’s failure to object to admission of a non-testifying co-defendant’s redacted statement. Pet. 5, 7, ECF No. 1 (ECF pagination).

United States Magistrate Judge Scott W. Reid issued a Report and Recommendation (R&R) recommending denial of Soler’s petition. Judge Reid found Soler’s first claim to be meritless because the state courts “determined that Petitioner had no basis for his motion to suppress under the governing law,” and “counsel cannot be considered ineffective for failing to pursue a meritless claim.” R&R 6, ECF No. 15. As to the second claim, Judge Reid found there was a Confrontation Clause violation under *Bruton v. United States*, 391 U.S. 123 (1968), but concluded it was harmless error given the substantial other evidence of guilt before the jury. *Id.* at 15.

Soler now objects to the R&R. The Court reviews de novo “those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). Soler asserts the R&R’s “averments” were not “properly set forth before the court” and that his “basic position respectfully is certainly said to be contrary to that of the MJRR.” Objs. 2, 3, ECF No. 16. But Soler’s Objections are duplicative of the arguments he raised in his habeas petition and briefing. Soler fails to identify particular aspects of the R&R’s *analysis* to which he objects. Rather, Soler’s Objections set forth statements of law, then conclude he meets the standard for relief without any factual analysis. In the R&R, Judge Reid gave careful and thorough consideration to both of Soler’s claims. After de novo review of the record, the R&R, and Soler’s

2. The Report and Recommendation (Document 15) is APPROVED and ADOPTED;
3. The Petition for Writ of Habeas Corpus is DENIED and DISMISSED without an evidentiary hearing; and
4. No Certificate of Appealability shall issue, as Soler has not made a substantial showing of the denial of a constitutional right.

The Clerk of Court is DIRECTED to mark this matter as CLOSED.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, C.J.

objections, the Court finds no error in the R&R's analysis. Accordingly, the Court will overrule Soler's objections, approve and adopt the R&R, and deny the petition.